

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 79 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
 2 paragraph and insert:
 3 “SECTION 1. IC 8-2.1-24-18 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR
 5 Parts 382 through 387, 390 through 393, and 395 through 398 is
 6 incorporated into Indiana law by reference, and, except as provided
 7 in subsections (d), (e), (f), and (g), must be complied with by an
 8 interstate and intrastate motor carrier of persons or property
 9 throughout Indiana. Intrastate motor carriers subject to compliance
 10 reviews under 49 CFR 385 shall be selected according to criteria
 11 determined by the superintendent which must include but is not
 12 limited to factors such as previous history of violations found in
 13 roadside compliance checks and other recorded violations. However,
 14 the provisions of 49 CFR 395 that regulate the hours of service of
 15 drivers, including requirements for the maintenance of logs, do not
 16 apply to a driver of a truck that is registered by the bureau of motor
 17 vehicles and used as a farm truck under IC 9-18, or a vehicle operated
 18 in intrastate construction or construction related service, or the
 19 restoration of public utility services interrupted by an emergency.
 20 Except as provided in subsection (i), intrastate motor carriers not
 21 operating under authority issued by the United States Department of
 22 Transportation shall comply with the requirements of 49 CFR
 23 390.21(b)(3) by registering with the department of state revenue as an
 24 intrastate motor carrier and displaying the certification number issued
 25 by the department of state revenue preceded by the letters "IN".

1 Except as provided in subsection (i), all other requirements of 49 CFR
2 390.21 apply equally to interstate and intrastate motor carriers.

3 (b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173,
4 177 through 178, and 180, is incorporated into Indiana law by
5 reference, and every:

- 6 (1) private carrier;
- 7 (2) common carrier;
- 8 (3) contract carrier;
- 9 (4) motor carrier of property, intrastate;
- 10 (5) hazardous material shipper; and
- 11 (6) carrier otherwise exempt under section 3 of this chapter;

12 must comply with the federal regulations incorporated under this
13 subsection, whether engaged in interstate or intrastate commerce.

14 (c) Notwithstanding subsection (b), nonspecification bulk and
15 nonbulk packaging, including cargo tank motor vehicles, may be used
16 only if all the following conditions exist:

- 17 (1) The maximum capacity of the vehicle is less than three
18 thousand five hundred (3,500) gallons.
- 19 (2) The shipment of goods is limited to intrastate commerce.
- 20 (3) The vehicle is used only for the purpose of transporting fuel
21 oil, kerosene, diesel fuel, gasoline, gasohol, or any combination
22 of these substances.

23 All additional federal standards for the safe transportation of
24 hazardous materials apply until July 1, 2000. After June 30, 2000, the
25 maintenance, inspection, and marking requirements of 49 CFR 173.8
26 and Part 180 are applicable. In accordance with federal hazardous
27 materials regulations, new or additional nonspecification cargo tank
28 motor vehicles may not be placed in service under this subsection
29 after June 30, 1998.

30 (d) For the purpose of enforcing this section, only:

31 (1) a state police officer or state police motor carrier inspector
32 who:

- 33 (A) has successfully completed a course of instruction
34 approved by the Federal Highway Administration; and
- 35 (B) maintains an acceptable competency level as
36 established by the state police department; or

37 (2) an employee of a law enforcement agency who:

- 38 (A) before January 1, 1991, has successfully completed a
39 course of instruction approved by the Federal Highway
40 Administration; and
- 41 (B) maintains an acceptable competency level as
42 established by the state police department;
43 on the enforcement of 49 CFR, may, upon demand, inspect
44 the books, accounts, papers, records, memoranda,
45 equipment, and premises of any carrier, including a carrier
46 exempt under section 3 of this chapter.

47 (e) A person hired before September 1, 1985, who operates a
48 motor vehicle intrastate incidentally to the person's normal
49 employment duties and who is not employed as a chauffeur (as
50 defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as
51 incorporated by this section.

52 (f) Notwithstanding any provision of 49 CFR 391 to the contrary,

1 a person at least eighteen (18) years of age and less than twenty-one
 2 (21) years of age may be employed as a driver to operate a
 3 commercial motor vehicle intrastate. However, a person employed
 4 under this subsection is not exempt from any other provision of 49
 5 CFR 391.

6 (g) Notwithstanding subsection **(a) or (b)**, the following
 7 provisions of 49 CFR do not apply to private carriers of property
 8 operated only in intrastate commerce or any carriers of property
 9 operated only in intrastate commerce ~~while employed in construction~~
 10 ~~or construction related service whether or not the carrier vehicle is~~
 11 **of a class that requires commercial driver's license:**

12 (1) Subpart 391.41(b)(3) as it applies to physical qualifications
 13 of a driver who has ~~applied for or holds a commercial driver's~~
 14 ~~license (as defined in 49 CFR 391.29)~~, **been** diagnosed as an
 15 insulin dependent diabetic, if the driver has applied for and
 16 been granted an intrastate medical waiver by the bureau of
 17 motor vehicles **pursuant to this subsection. The same**
 18 **standards and the following procedures shall apply for this**
 19 **waiver whether or not the driver is required to hold a**
 20 **commercial driver's license. An application for the waiver**
 21 **shall be submitted by the driver and** completed and signed by
 22 a certified endocrinologist or the driver's treating physician
 23 attesting that the driver:

24 (A) is **not** otherwise physically ~~qualified~~ **disqualified**
 25 under Subpart 391.41 to operate a motor vehicle, **whether**
 26 **or not any additional disqualifying condition results**
 27 **from the diabetic condition**, and is not likely to suffer any
 28 diminution in driving ability due to the driver's diabetic
 29 condition;

30 (B) is free of severe hypoglycemia or hypoglycemia
 31 unawareness and has had less than one (1) documented,
 32 symptomatic hypoglycemic reaction per month;

33 (C) has demonstrated the ability and willingness to
 34 properly monitor and manage the driver's diabetic
 35 condition;

36 (D) has agreed to and, to the endocrinologist's or treating
 37 physician's knowledge, has carried a source of rapidly
 38 absorbable glucose at all times while driving a motor
 39 vehicle, has self monitored blood glucose levels one (1)
 40 hour before driving and at least once every four (4) hours
 41 while driving or on duty before driving using a portable
 42 glucose monitoring device equipped with a computerized
 43 memory; and

44 (E) has submitted the blood glucose logs from the
 45 monitoring device to the endocrinologist or treating
 46 physician at the time of the annual medical examination.
 47 A copy of the blood glucose logs shall be filed along with
 48 the annual statement from the endocrinologist or treating
 49 physician with the bureau of motor vehicles for review by
 50 the driver licensing medical advisory board established

under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 79 as printed March 22, 2005.)

Representative WOLKINS